

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CARL A. SMITH,

Plaintiff,

- against -

THE CITY OF NEW YORK, et al.,

Defendants.

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**ORDER COMPELLING
PRODUCTION**

09 cv 3537 (BMC)

HACHIM MONDESIR, et al.,

Plaintiffs,

- against -

THE CITY OF NEW YORK, et al.,

Defendants.

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09 cv 3624 (BMC)

Plaintiff Alcide’s counsel claims that despite his “best efforts,” he has been unable to get his client to execute a criminal records release despite prior Orders of this Court that plaintiff must supply such a release. At the outset, the Court rejects counsel’s argument that these records are not important. They are of vital importance. Among other things, defendants are unable to confirm or refute plaintiff’s assertion that he was not prosecuted without the records. In addition, the arrest record itself is obviously of central importance in a case of false arrest. Indeed, it is hard to imagine any §1983 case alleging police misconduct where the criminal file is not essential, and plaintiff’s counsel has failed to show any reason why this is such a case. The

argument that defendants do not need the records is frivolous, and any further assertion of equally frivolous positions will result in the imposition of a sanction on plaintiff's counsel.

Although plaintiff's counsel asserts "best efforts," he does not describe what efforts he has made, other than giving a copy of the release to plaintiff's mother, who is over 1000 miles from him. Plaintiff's counsel is directed to send a copy of this Order, together with any cover letter he deems appropriate and the release, to plaintiff at his place of incarceration. These documents will be sent by registered mail, and proof of mailing must be filed with this Court by January 8, 2010.

**THIS ORDER ADVISES PLAINTIFF THAT UNLESS THE EXECUTED
RELEASE IS DELIVERED TO DEFENDANTS BY JANUARY 29, 2010, PLAINTIFF'S
CASE WILL BE DISMISSED FOR FAILURE TO COMPLY WITH COURT ORDERS.**

SO ORDERED.

Signed electronically/Brian M. Cogan
U.S.D.J.

Dated: Brooklyn, New York
January 4, 2010